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May 2, 2024

VIA ECF

Hon. Edgardo Ramos
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square, Courtroom 619
New York, NY 10007

Re: SEC v. Sun, et al., Case No. 1:23-cv-2433-ER (S.D.N.Y)

Dear Judge Ramos:

We submit this renewed pre-motion letter on behalf of defendants Tron Foundation Limited ("Tron Foundation"), BitTorrent Foundation Ltd. ("BitTorrent Foundation"), Justin Sun, and Rainberry, Inc. ("Rainberry") (collectively, "Defendants") pursuant to this Court's Individual Practice Rule 2.A.ii. The parties have conferred, and in the interest of efficiency, agree and propose that this letter should serve as an expression of the parties' proposal for a schedule on Defendants' anticipated motion to dismiss the amended complaint recently filed by the Securities and Exchange Commission ("SEC"). The SEC has reviewed this letter before filing and consents to the deadlines and page limits proposed below.

The SEC commenced this action on March 22, 2023. Defendants filed a pre-motion conference request and letter on February 16, 2024, outlining the bases upon which Defendants believe the Court should dismiss the SEC's claims against them. ECF No. 43. The SEC responded by letter on February 28, 2024 (ECF No. 47), and the Court held a pre-motion conference on March 14, 2024. The Court permitted Defendants to proceed with their motion to dismiss, which was filed on March 28, 2024. ECF Nos. 54-56.

In response, the SEC elected to amend its complaint on April 18, 2024. ECF No. 59. Defendants' position is that the amendments do not cure the deficiencies identified in Defendants' February 16, 2024 pre-motion letter and March 28, 2024 motion to dismiss. As such, Defendants request leave to file a renewed motion to dismiss on substantially the same grounds identified in their prior pre-motion letter, which are not restated here for efficiency. Defendants understand that the SEC will oppose that motion on substantially the same grounds set forth in its February 28, 2024 letter to the Court and during the pre-motion conference.

The parties do not believe a second pre-motion conference is necessary but defer to the Court on whether it would find one beneficial. The parties propose the following briefing schedule

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for moving to dismiss the amended complaint, with page limits identical to those the Court previously permitted:

- (1) Defendants shall file their omnibus motion to dismiss by May 30, 2024, with a 50-page limit for the supporting brief;
- (2) the SEC shall file any opposition brief by June 28, 2024, with a 50-page limit; and
- (3) Defendants' reply brief to be filed by July 26, 2024, with a 25-page limit.

Sincerely,

FENWICK & WEST LLP

/s/ Jennifer Bretan

Jennifer Bretan

cc: All Counsel of Record (Via ECF)